

Senate Bill 30

By: Senators Tolleson of the 20th, Hooks of the 14th, Cowser of the 46th, Harp of the 29th, Tarver of the 22nd and others

AS PASSED

AN ACT

To amend Article 9 of Chapter 1 of Title 10 of the Official Code of Georgia Annotated, relating to gasoline marketing practices, so as to provide that suppliers of automotive gasoline shall offer to supply gasoline distributors with gasoline that has not been blended with, but is suitable for blending with, fuel alcohol; to preclude inhibiting gasoline distributors from being blenders; to define certain terms; to change certain provisions relating to marketing agreements subject to said article; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Article 9 of Chapter 1 of Title 10 of the Official Code of Georgia Annotated, relating to gasoline marketing practices, is amended by revising Code Section 10-1-232, relating to definitions, as follows:

"10-1-232.

As used in this article, the term:

- (1) 'Automotive gasoline' or 'gasoline' means octane rated fuels made from petroleum products for use in the propulsion of motor vehicles.
- (2) 'Automotive gasoline dealer' or 'gasoline dealer' means any person or firm engaged primarily in the retail sale of automotive gasoline and related products and services under a marketing agreement entered into with an automotive gasoline distributor.
- (3) 'Automotive gasoline distributor' or 'gasoline distributor' means any person or firm engaged, whether as a jobber or supplier, in the sale, consignment, or distribution of gasoline to automotive gasoline dealers pursuant to marketing agreements.
- (3.1) 'Blended fuel' means a mixture composed of automotive gasoline and another liquid, other than a de minimus amount of a product such as carburetor detergent or oxidation inhibitor, that can be used as a fuel in a motor vehicle.

(3.2) 'Blender' means a person or firm which produces blended fuel outside a terminal transfer system.

(3.3) 'Fuel alcohol' means alcohol or fuel grade ethanol.

(3.4) 'Gasohol' means a blended fuel composed of gasoline and fuel grade ethanol.

(3.5) 'Jobber' means an automotive gasoline distributor which is not a supplier.

(4) 'Marketing agreement' or 'agreement' means a written agreement, including a franchise, and all related written agreements between an automotive gasoline distributor and an automotive gasoline dealer under which such dealer is supplied automotive gasoline for retail sale or an agreement between an automotive gasoline distributor and an automotive gasoline dealer under which the automotive gasoline dealer is granted the right to occupy premises owned, leased, or controlled by the automotive gasoline distributor for the purpose of engaging in the retail sale of gasoline of the automotive gasoline distributor.

(4.1) 'Position holder' means a person or firm which holds the inventory position in automotive gasoline in a terminal, as reflected on the records of the terminal operator. A person or firm holds the inventory position in automotive gasoline when that person or firm has a contract with the terminal operator for the use of storage facilities and terminaling services for gasoline at the terminal. The term includes a terminal operator which owns gasoline in the terminal.

(4.2) 'Rack' means a mechanism for delivering automotive gasoline from a refinery, a terminal, or a bulk plant into a transport truck, a railroad tank car, or another means of transfer that is outside the terminal transfer system.

(4.3) 'Refiner' means a person or firm which owns, operates, or controls a refinery, wherever located.

(4.4) 'Refinery' means a facility used to process crude oil, unfinished oils, natural gas liquids, or other hydrocarbons into automotive gasoline and from which automotive gasoline may be removed by pipeline or vessel or at a rack. The term does not include a facility that produces only blended fuel or gasohol.

(4.5) 'Removal' means a physical transfer other than by evaporation, loss, or destruction. A physical transfer to a transport truck or another means of conveyance outside a terminal transfer system is complete upon delivery into the means of conveyance.

(5) 'Retail sale of automotive gasoline' means the sale thereof for consumption, and not for resale, at a retail outlet serving the motoring public.

(6) 'Supplier' means:

(A) A position holder or a person or firm which receives automotive gasoline pursuant to a two-party exchange; or

(B) A refiner.

(7) 'Terminal' means an automotive gasoline storage and distribution facility that has been assigned a terminal control number by the United States Internal Revenue Service, is supplied by pipeline or marine vessel, and from which automotive gasoline may be removed at a rack.

(8) 'Terminal operator' means a person or firm which owns, operates, or otherwise controls a terminal.

(9) 'Terminal transfer system' means an automotive gasoline distribution system consisting of refineries, pipelines, marine vessels, and terminals. The term has the same meaning as 'bulk transfer/terminal system' under 26 C.F.R. Section 48.4081-1.

(10) 'Two-party exchange' means a transaction in which automotive gasoline is transferred from one licensed supplier to another licensed supplier pursuant to an exchange agreement under which the supplier that is the position holder agrees to deliver automotive gasoline to the other supplier or the other supplier's customer at the rack of the terminal at which the delivering supplier is the position holder."

SECTION 2.

Said article is further amended by adding a new Code section to read as follows:

"10-1-234.1.

Regardless of other products offered, any supplier which, pursuant to a marketing agreement, supplies gasoline from a terminal in this state to a gasoline distributor shall offer to supply such party with gasoline that has not been blended with, but is suitable for blending with, fuel alcohol. No supplier shall prevent or inhibit a gasoline distributor in this state from being a blender or from qualifying for any federal or state tax credit due to blenders. If a supplier supplies gasoline to a gasoline distributor pursuant to this Code section which is then blended, the gasoline distributor shall indemnify and hold harmless such supplier against any losses or damages arising out of claims, costs, judgments, and expenses, including reasonable attorney's fees, or suits relating to or arising out of such blending."

SECTION 3.

Said article is further amended by revising Code Section 10-1-240, relating to marketing agreements subject to said article, as follows:

"10-1-240.

This article shall apply to all marketing agreements as defined in paragraph (4) of Code Section 10-1-232 that are granted, renewed, or amended to extend the lease period on or after July 1, 2009."

SECTION 4.

All laws and parts of laws in conflict with this Act are repealed.